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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Appellant: Domel)	Art Unit: 3634
Serial No.: 10/062,655)	Examiner: Johnson
Filed: February 1, 2002)	1006.023
For: OPERATING SIGNAL SYSTEM AND METHOD)	September 20, 2005
FOR CONTROLLING A MOTORIZED WINDOW)	750 B STREET, Suite 3120
COVERING)	San Diego, CA 92101
)	

REPLY BRIEF

Commissioner of Patents and Trademarks
Washington, DC 20231

Dear Sir:

This responds to the Examiner's Answer dated September 15, 2005. The Answer incorrectly alleges that Appellant has argued only that references are not analogous, there is no suggestion to combine them, and they cannot be physically incorporated. Appellant's arguments in fact consist of more than these points, e.g., Appellant has argued specific technical differences between the claims and the primary reference. Appellant has also observed that several limitations in independent Claim 7 and various dependent claims have never yet been mentioned, almost four years into prosecution, yet the Answer, which has been initialed by Conferees Stodola and Cuomo as having been read and understood, fails to even touch on this issue. Appellant wonders how much of its claims, let alone its arguments, are actually being read by Office personnel.

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Turning to the substance of the Answer, the Examiner avoids having to explain why the door lock art is analogous to the window covering art by the simple expedient of redefining the problem to be solved, namely, by pretending that the claims are not limited to a particular technical field but instead are directed to "conserving power" in a general vacuum. It happens that power conservation, as a general proposition, is a factor in virtually every technical endeavor, including in portable computers, wireless telephones, and even, based on personal first-hand knowledge, in nuclear reactor design. Under the examiner's reasoning, all these fields would be analogous to the present window covering claims, since the problem, as defined by the examiner, is general "power conservation". The Board certainly cannot accede to such logic; otherwise, the legal requirement for analoguousness would be rendered meaningless.

The Answer next admits to the impermissible picking and choosing of elements from various prior art references when it states that "physical incorporation of Buccola into van Dinteren et al. is not proposed, but merely substituting the [system] which controls the actuator." Note that no prior art suggestion is identified for the "mere substitution" of parts; obviously, the claims have been impermissibly used as a template for the willy-nilly cramming of door lock features into window blinds.

Continuing the tradition of the case of not actually reading what Appellant writes, the Examiner (as well as Conferees Stodola and Cuomo) wave off Appellant's argument that Buccola nowhere teaches what generates the frequencies, or how the wake up frequency "prepares" the microprocessor for operation, or even that the microprocessor is deenergized until receipt of the wake up frequency by repeating the incorrect allegation that "only one signal has been claimed, and the other two points have not been claimed".

Where to begin? First, the allegation is wrong that only one signal has been claimed. As repeatedly pointed out by Appellant, if someone in the Patent Office would ever actually read the claims, this issue

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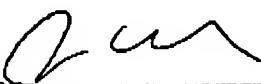
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would be moot. Claim 1, for example, recites a wake-up signal having a first frequency and a data signal having a second frequency different than the first frequency. How is that "only one signal"? Yet the examiner repeatedly ignores what the claims say, along with Appellant's repeated pleas to read the claims.

Second, the argument being referred to in the Answer was not attempting to draw distinctions between the prior art and the claims - that is done elsewhere in the (evidently unread) Appeal Brief. The examiner has entirely missed the point of the referred-to argument, which was to highlight the lack of a motivation to combine references. When arguing the differences between a claim and the prior art, it is true that "the name of the game is the claim". But when the issue is the suggestion to combine references, the name of the game had better well *not* be the claim; otherwise, impermissible hindsight reconstruction is implicated. Instead, the name of the game in combining references is the *prior art suggestion to combine* as proposed, the central aspect of the law of obviousness with which it is hoped and expected that the Board will show more familiarity than the Examiner and Conferees Stodola and Cuomo.

Respectfully submitted,


John L. Rogitz
Registration No. 33,549
Attorney of Record
750 B Street, Suite 3120
San Diego, CA 92101
Telephone: (619) 338-8075

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